

In re application of:

C. MEARS

Appln. No.: 09/763,089

Filed: February 16, 2001

For: APPLICATOR AND DISPENSING  
DEVICE USING SAME

Art Unit:

Examiner: David Stemmer

Atty. Docket No. 29925-169801

Customer No.



26694

PATENT TRADEMARK OFFICE

### **Response To Notification And Request For Reconsideration**

**ATTN: PCT Legal Affairs**  
**Office of Patent Cooperation Treaty Legal Administration**  
Assistant Commissioner for Patent  
Washington, D.C. 20231

Sir:

In response to Applicant's submission of 18 January 2002, a notification was received from U.S. Patent and Trademark Office dated March 29, 2002. The notification continues to allege that the Declarations originally submitted in the above-referenced application were improper and not sufficient.

In response thereto, Applicants respectfully submit a Declaration properly executed by Mr. Ralph Zissel and a newly executed Declaration from Messrs. Harvey and Lawrence Levine. However, Applicants respectfully request reconsideration of the refusal to accept the previously resubmitted Declarations.

As previously stated, Applicants representative faxed a complete copy of the oath or Declaration containing both pages to the inventors Harvey and Lawrence Levine on June 15, 2001. On June 28, 2001, Harvey and Lawrence Levine returned via facsimile properly executed page of the Declaration containing their signatures. Although both pages of the original Declaration were sent to the Levines, only the signed page was returned and filed on July 2,

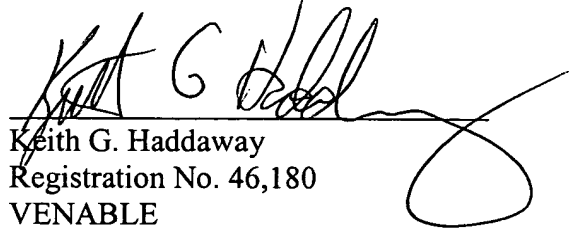
2001. In response to the July 2, 2001 filing the Examiner sent a notification on December 18, 2001 indicating that the oath was defective. In response thereto, the signed page of the Declaration together with a copy of the first Declaration was filed again on January 18, 2002. At that time, it was explained that both pages had been sent to the inventors, the inventors had reviewed both pages, and only returned the signature page. The March 29, 2002 notification was sent in response to that submission.

Applicants' representative respectfully asserts that the allegations of the March 29, 2002 notification are in error. The notification states that the complete Declaration which was presented to and signed by the relative inventors must be provided and that simply attaching the signature page together with a different copy of the first page is not sufficient. In the experience of this is contrary to typical office procedure and Applicants therefore request that the January 18, 2002 submission be deemed sufficient.

This submission is being filed together with a request for a one month extension of time. Should, upon reconsideration, the Examiner decide that the previously submitted Declarations are adequate, Applicants respectfully request that the \$55.00 fee for extension of time be refunded or deposited in Deposit Account No. 22-0261. Should any additional fees be required with this submission, the Commissioner is authorized to charge such fees to Deposit Account No. 22-0261 and notify undersigned counsel accordingly.

Dated: May 29, 2002

Respectfully submitted,



Keith G. Haddaway  
Registration No. 46,180  
VENABLE  
P.O. Box 34385  
Washington, D.C. 20043-9998  
Telephone: (202) 962-4800  
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DC2-376839

01/18/02 18:24 202 982 8300

VENABLE

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Attorney Docket 29925-169801

DECLARATION FOR UNITED STATES PATENT APPLICATION,  
POWER OF ATTORNEY, DESIGNATION OF CORRESPONDENCE ADDRESS

As a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name, and that I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled APPLICATOR AND DISPENSING DEVICE USING SAME, the specification of which

[X] was filed on February 16, 2001 as Application No. 09/763,089 and as a continuation application filed under the Patent Cooperation Treaty on August 18, 1999, as Application No. PCT/US99/18738, the United States of America being designated.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent, utility model, design or inventor's certificate listed below and have also identified below any foreign application(s) for patent, utility model, design or inventor's certificate having a filing date before that of the application(s) on which priority is claimed:

Prior Foreign Application(s)Priority Claimed

I hereby appoint the registered attorneys and agents of VENABLE associated with the following customer number to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:



26694

PATENT TRADEMARK OFFICE

VENABLE is located at Suite 1000, 1201 New York Avenue, N.W., Washington, D.C. 20005-3917, Telephone: (202) 962-4800, Telefax: (202) 962-8300. Address all correspondence to VENABLE, Post Office Box 34385, Washington, D.C. 20043-9998.

The undersigned hereby authorizes the U.S. attorneys and agents named herein to accept and follow instructions from the undersigned's assignee, if any, and/or, if the undersigned is not a resident of the United States, the undersigned's domestic attorney, patent attorney or patent agent, as to any action to be taken in the Patent and Trademark Office regarding this application without direct communication between the U.S. attorneys and the undersigned. In the event of a change in the person(s) from whom instructions may be taken, the U.S. attorneys or agents named herein will be so notified by the undersigned.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under §1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_, 200\_

Joint Inventor: Christopher MEARS

Citizenship: USA

Residence and Post Office Address: 200 West 81<sup>st</sup> Street, Apt. 32  
New York, NY 10024

Signature: \_\_\_\_\_

Date: \_\_\_\_\_, 200\_

Joint Inventor: Richard GRAY

Citizenship: USA

Residence and Post Office Address: 150 Central Park South, Suite 3210  
New York, NY 10019

PCT  
#1

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**FEE TRANSMITTAL**  
for FY 2002

Patent fees are subject to annual revision.

**TOTAL AMOUNT OF PAYMENT (\$)** 55

**Complete if Known**

Application Number: 09/763,089

Filing Date: February 16, 2001

First Named Inventor: C. MEARS

Examiner Name: Unassigned

Group / Art Unit: Unassigned

Attorney Docket No.: 29925-169801

**METHOD OF PAYMENT (check one)**

1. ☒ The Commissioner is hereby authorized to charge indicated fees and credit any over payments to:

Deposit Account Number: 22-0261

Deposit Account Name: Venable

☒ Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17

☐ Applicant claims small entity status. See 37 CFR 1.27

2. ☐ Payment Enclosed:

☐ Check ☐ Credit card ☐ Money Order ☐ Other

**FEE CALCULATION**

1. BASIC FILING FEE

Large Fee Code	Entity (\$)	Small Fee Code	Entity (\$)	Fee Description	Fee Paid
101	740	201	370	Utility filing fee	
106	330	206	165	Design filing fee	
107	510	207	255	Plant filing fee	
108	740	208	370	Reissue filing fee	
114	160	214	80	Provisional filing fee	
<b>SUBTOTAL (1)</b>					<b>(\$)</b> 0

2. EXTRA CLAIM FEES

Large Fee Code	Entity (\$)	Small Fee Code	Entity (\$)	Fee Description	Fee Paid
103	18	203	9	Claims in excess of 20	
102	84	202	42	Independent claims in excess of 3	
104	280	204	140	Multiple dependent claim, if not paid	
109	84	209	42	** Reissue independent claims over original patent	
110	18	210	9	** Reissue claims in excess of 20 and over original patent	
<b>SUBTOTAL (2)</b>					<b>(\$)</b> 0

\*\*or number previously paid, if greater; For Reissues, see above

**FEE CALCULATION (continued)**

Large Fee Code	Entity (\$)	Small Fee Code	Entity (\$)	Fee Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	
127	50	227	25	Surcharge - late provisional filing fee or cover sheet	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	55
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1,440	218	720	Extension for reply within fourth month	
128	1,960	228	980	Extension for reply within fifth month	
119	320	219	160	Notice of Appeal	
120	320	220	160	Filing a brief in support of an appeal	
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive - unavoidable	
141	1,280	241	640	Petition to revive - unintentional	
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Processing fee under 37 CFR 1.17 (q)	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	
146	740	246	370	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	740	249	370	For each additional invention to be examined (37 CFR § 1.129(b))	
179	740	279	370	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	
Other fee (specify)					
<b>*Reduced by Basic Filing Fee Paid</b>					
<b>SUBTOTAL (3)</b>					<b>(\$)</b> 55

**SUBMITTED BY**

Name (Print/Type): Keith G. Haddaway

Registration No. (Attorney/Agent): 46,180

Telephone: (202) 962-4800

Signature: [Signature]

Date: May 29, 2002

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

**VENABLE**  
ATTORNEYS AT LAW

PC Docs No. 377012

SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

09/763089

2 Rec'd PCT/PTO 16 FEB 2001



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
ASSISTANT SECRETARY AND COMMISSIONER  
OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

JANUARY 20, 1999

PTAS

ADAMS & WILKS  
BRUCE L. ADAMS, ESQ.  
50 BROADWAY-31ST FL.  
NEW YORK, NY 10004



\*100836704A\*

UNITED STATES PATENT AND TRADEMARK OFFICE  
NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 09/18/1998

REEL/FRAME: 9465/0947  
NUMBER OF PAGES: 3

BRIEF: ASSIGNMENT OF ASSIGNOR'S INTEREST (SEE DOCUMENT FOR DETAILS).

ASSIGNOR:  
MEARS, CHRISTOPHER

DOC DATE: 09/10/1998

ASSIGNOR:  
GRAY, RICHARD F.

DOC DATE: 09/10/1998

ASSIGNEE:  
ARICH INC.  
150 CENTRAL PARK WEST  
SUITE 3210  
NEW YORK, NEW YORK 10019

SERIAL NUMBER: 09135942  
PATENT NUMBER:

FILING DATE: 08/18/1998  
ISSUE DATE:

09/763089

JUL 02 Rec'd PCT/PTO 16 FEB 2001

9465/0947 PAGE 2

DIANE RUSSELE, PARALEGAL  
ASSIGNMENT DIVISION  
OFFICE OF PUBLIC RECORDS

Job8 Rec'd PCT/PTO 16 FEB 2001

09/763089

The PTO did not receive the following  
listed item(s)  
NO POST CARD

ASSIGNMENT

Attorney Docket  
29925-152085

WHEREAS Lawrence T. Levine and Harvey Levine hereinafter (collectively) referred to as the assignor, has provided consulting services in conjunction with developing improvements or aspects of improvements relating to **APPLICATOR AND DISPENSING DEVICE USING THE SAME**, for which an application for United States Letters Patent has been filed in the United States Patent and Trademark Office on August 18, 1998, Serial Number 09/135,942; and said application having been filed under the Patent Cooperation Treaty on August 18, 1999, Serial No. PCT/US99/18738 the United States of America being designated (the "improvements"),

AND WHEREAS Arich Inc.  
150 Central Park South, Suite 3210  
New York, New York 10019

hereinafter referred to as the assignee, is desirous of acquiring the entire right, title and interest in and to said application, including any and all divisions and continuations thereof, and in and to said improvements and any and all patents which may be granted therefore, including any and all renewals, reissues and prolongations thereof,

NOW THIS WITNESSETH, that, for and in consideration of One Dollar (\$1.00), and other good and valuable consideration paid by Assignee to Assignor, the receipt and sufficiency of which is hereby acknowledged, Assignor hereby assigns, sells and transfers, and has assigned, sold, and transferred to Assignee, its successors and assigns, its entire and exclusive right, title, and interest for the United States in and to the improvements, the application, and any patents which may be granted therefor, including any and all divisions, continuations, in whole or in part, substitutions, renewals, reissues, reexaminations, and extensions thereof, and all applications claiming priority therefrom; and Assignor authorizes and requests the Commissioner of Patents and Trademarks to issue all patents for the invention, or patents resulting therefrom, insofar as their interest is concerned, to Assignee; to have, hold, exercise, and enjoy, with all the rights, powers, privileges, and advantages in anywise arising therefrom or appertaining thereto, for and during the term or terms of any and all such patents when granted, for the use and benefit of said assignee, and said assignee's successors and assigns, in as ample and beneficial a manner as Assignor might or could have held and enjoyed the same, if this assignment had not been made.

Assignor further hereby assigns, sells and transfers, and has assigned, sold, and transferred to Assignee, its successors and assigns, its entire right, title and interest in all countries of the world, in and to the improvements and in and to the application and all patents which may be granted therefor, and all national applications, regional applications, divisions, reissues, substitutions, continuations, in whole or in part, re-examinations, and extensions thereof, including the right to file applications and obtain patents for the invention in its own name, in all countries and including all rights of priority in all countries under the terms of any applicable international convention, insofar as its interest is concerned; and the Assignor hereby authorizes and requests the applicable patent office in each country of the world to issue all patents for the invention, or patents resulting therefrom, insofar as its interest is concerned, to the Assignee, to have and to hold for the sole and exclusive use and benefit of the Assignee, its successors and assigns, to the full end of the term or terms for which any and all of such patents for the invention may issue, to the same extent as the Assignor would hold and enjoy if this Assignment had not been made.

The Assignor further agrees to execute any and all patent applications, assignments, affidavits, and any other papers in connection therewith necessary to perfect such patent rights, and also agrees, at the request of the Assignee, to testify in any legal proceedings, sign all lawful papers, make all lawful oaths, and generally do everything possible to aid said Assignee, its successors and assigns, to obtain, maintain and enforce proper patent protection for said invention.

IN WITNESS WHEREOF, each individual collectively referred to as Assignor has caused this Assignment



## ASSIGNMENT

Attorney Docket  
29925-152085

-2-

to be executed.

Dated this 9<sup>th</sup> day of December, ~~1999~~ 2000.

## WITNESS:

Signature: Barbara Antidormi  
Name: Barbara Antidormi  
Address: 1237 Stratfield Road  
7fld., CT 06432

## ASSIGNOR:

Signature: Lawrence T. Levine  
Name: Lawrence T. Levine  
Residence Address: 3 AUSTIN DR. EXT.  
EASTON, CT 06612  
Citizenship: U.S.A.Dated this 9<sup>th</sup> day of December, ~~1999~~ 2000.

## WITNESS:

Signature: Barbara Antidormi  
Name: Barbara Antidormi  
Address: 1237 Stratfield Road  
7fld., CT 06432

## ASSIGNOR:

Signature: Harvey Levine  
Name: Harvey Levine  
Residence Address: 251 WOODSIDE CIRCLE  
15A, 1211020 CT 06432  
Citizenship: U.S.A.

DCI/105159

A/D 381.40

12/11/2000 18:30 203-368-3615  
11/21/2000 16:42 FAX 2029828300

TELEPHONE CREATIVE SERVICES

PAGE 05

ASSIGNMENT

Attorney Docket  
29925-152085

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AND WHEREAS Arich Inc.  
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hereinafter referred to as the assignee, is desirous of acquiring the entire right, title and interest in and to said application, including any and all divisions and continuations thereof, and in and to said improvements and any and all patents which may be granted therefore, including any and all renewals, reissues and prolongations thereof,

NOW THIS WITNESSETH, that, for and in consideration of One Dollar (\$1.00), and other good and valuable consideration paid by Assignee to Assignor, the receipt and sufficiency of which is hereby acknowledged, Assignor hereby assigns, sells and transfers, and has assigned, sold, and transferred to Assignee, its successors and assigns, its entire and exclusive right, title, and interest for the United States in and to the improvements, the application, and any patents which may be granted therefor, including any and all divisions, continuations, in whole or in part, substitutions, renewals, reissues, reexaminations, and extensions thereof, and all applications claiming priority therefrom; and Assignor authorizes and requests the Commissioner of Patents and Trademarks to issue all patents for the invention, or patents resulting therefrom, insofar as their interest is concerned, to Assignee; to have, hold, exercise, and enjoy, with all the rights, powers, privileges, and advantages in anywise arising therefrom or appertaining thereto, for and during the term or terms of any and all such patents when granted, for the use and benefit of said assignee, and said assignee's successors and assigns, in as ample and beneficial a manner as Assignor might or could have held and enjoyed the same, if this assignment had not been made.

Assignor further hereby assigns, sells and transfers, and has assigned, sold, and transferred to Assignee, its successors and assigns, its entire right, title and interest in all countries of the world, in and to the improvements and in and to the application and all patents which may be granted therefor, and all national applications, regional applications, divisions, reissues, substitutions, continuations, in whole or in part, re-examinations, and extensions thereof, including the right to file applications and obtain patents for the invention in its own name, in all countries and including all rights of priority in all countries under the terms of any applicable international convention, insofar as its interest is concerned; and the Assignor hereby authorizes and requests the applicable patent office in each country of the world to issue all patents for the invention, or patents resulting therefrom, insofar as its interest is concerned, to the Assignee, to have and to hold for the sole and exclusive use and benefit of the Assignee, its successors and assigns, to the full end of the term or terms for which any and all of such patents for the invention may issue, to the same extent as the Assignor would hold and enjoy if this Assignment had not been made.

The Assignor further agrees to execute any and all patent applications, assignments, affidavits, and any other papers in connection therewith necessary to perfect such patent rights, and also agrees, at the request of the Assignee, to testify in any legal proceedings, sign all lawful papers, make all lawful oaths, and generally do everything possible to aid said Assignee, its successors and assigns, to obtain, maintain and enforce proper patent protection for said invention.

IN WITNESS WHEREOF, each individual collectively referred to as Assignor has caused this Assignment

ASSIGNMENT

Attorney Docket  
29925-152085

-2-

to be executed.

Dated this 9<sup>th</sup> day of December, ~~1999~~ 2000.

WITNESS:

Signature: Barbara Antidormi  
Name: Barbara Antidormi  
Address: 1237 Stratfield Road  
7f1d., CT 06432

ASSIGNOR:

Signature: Lawrence T. Levine  
Name: Lawrence T. Levine  
Residence Address: 3 AUSTIN DR. EXT.  
EASTON, CT 06612  
Citizenship: USA

Dated this 9<sup>th</sup> day of December, ~~1999~~ 2000.

WITNESS:

Signature: Barbara Antidormi  
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Address: 1237 Stratfield Road  
7f1d., CT 06432

ASSIGNOR:

Signature: Harvey Levine  
Name: Harvey Levine  
Residence Address: 251 WOODSIDE CIRCLE  
15A, 1211020 CT 06432  
Citizenship: USA

DCI/105159

DO/EO BIBLIOGRAPHIC DATA ENTRY

SERIAL NUMBER:	09 / 763089	RECEIPT DATE:	02 / 16 / 01
IA NUMBER:	PCT/ US99 / 18738	IA FILING DATE:	08 / 18 / 99
FAMILY NAME:	MEARS	DELAY WAIVED (Y/N):	Y
GIVEN NAME:	CHRISTOPHER	DEMAND RECEIVED (Y/N):	Y
PRIORITY CLAIMED (Y/N):	Y	PRIORITY DATE:	08 / 18 / 98
NO BASIC FEE (Y/N):	N	US DESIGNATED ONLY (Y/N):	N
ATTORNEY DOCKET NUMBER:	29925-152086	COUNTRY:	
CORRESPONDENCE NAME/ADDRESS:	CUSTOMER NUMBER:	000000	TELEPHONE 2025624800
			FAX
NAME:	KEITH G HADDAWAY		
	VENABLE		
STREET:	PO BOX 34385		
CITY:	WASHINGTON		
STATE/COUNTRY:	DC	ZIP:	200439998
EMAIL:			
APPLICATION TITLES:			
	APPLICATOR AND DISPENSING DEVICE USING SAME		

TAB TO LAST POSITION,PUSH SEND